

111TH CONGRESS  
1ST SESSION

# H. R. 1089

To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2009

Ms. HERSETH SANDLIN introduced the following bill; which was referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Veterans Employment  
5       Rights Realignment Act of 2009”.

1 **SEC. 2. ENFORCEMENT THROUGH OFFICE OF SPECIAL**  
2 **COUNSEL OF VETERANS' EMPLOYMENT OR**  
3 **UNEMPLOYMENT RIGHTS WITH RESPECT TO**  
4 **EMPLOYERS THAT ARE FEDERAL EXECUTIVE**  
5 **AGENCIES.**

6 (a) ENFORCEMENT OF RIGHTS THROUGH OFFICE OF  
7 SPECIAL COUNSEL.—Section 4322 of title 38, United  
8 States Code, is amended—

9 (1) by striking subsection (a) and inserting the  
10 following new subsection (a):

11 “(a)(1)(A) A person described in subparagraph (B)  
12 may file a complaint with the Secretary, and the Secretary  
13 shall investigate such complaint.

14 “(B) A person described in this subparagraph is a  
15 person who claims that—

16 “(i) such person is entitled under this chapter  
17 to employment or reemployment rights or benefits  
18 with respect to employment by an employer other  
19 than an employer that is a Federal executive agency;  
20 and

21 “(ii) such employer has failed or refused, or is  
22 about to fail or refuse, to comply with the provisions  
23 of this chapter.

24 “(2)(A) A person described in subparagraph (B) may  
25 file a complaint with the Special Counsel established by  
26 section 1211 of title 5.

1 “(B) A person described in this subparagraph is a  
2 person who claims that—

3 “(i) such person is entitled under this chapter  
4 to employment or reemployment rights or benefits  
5 with respect to employment by an employer that is  
6 a Federal executive agency; and

7 “(ii)(I) such employer has failed or refused, or  
8 is about to fail or refuse, to comply with the provi-  
9 sions of this chapter; or

10 “(II) such employer or the Office of Personnel  
11 Management has failed or refused, or is about to fail  
12 or refuse, to comply with the provisions of this chap-  
13 ter.”;

14 (2) by striking subsections (d) and (e) and in-  
15 serting the following new subsections (d) and (e):

16 “(d)(1) The Secretary shall investigate each com-  
17 plaint submitted pursuant to subsection (a)(1). If the Sec-  
18 retary determines as a result of the investigation that the  
19 action alleged in such complaint occurred, the Secretary  
20 shall attempt to resolve the complaint by making reason-  
21 able efforts to ensure that the person or entity named in  
22 the complaint complies with the provisions of this chapter.

23 “(2) If the efforts of the Secretary with respect to  
24 any complaint filed under subsection (a)(1) do not resolve

1 the complaint, the Secretary shall notify the person who  
2 submitted the complaint of—

3 “(A) the results of the Secretary’s investigation;  
4 and

5 “(B) the complainant’s entitlement to proceed  
6 under the enforcement of rights provisions provided  
7 under section 4323.

8 “(e)(1) In the case of a complaint filed under sub-  
9 section (a)(2), the Special Counsel shall investigate the  
10 complaint. If the Special Counsel determines as a result  
11 of the investigation that the action alleged in such com-  
12 plaint occurred, the Special Counsel shall attempt to re-  
13 solve the complaint by making reasonable efforts to ensure  
14 that the person or entity named in the complaint complies  
15 with the provisions of this chapter.

16 “(2) If the efforts of the Special Counsel with respect  
17 to any complaint filed under subsection (a)(2) do not re-  
18 solve the complaint, the Special Counsel shall notify the  
19 person who submitted the complaint of—

20 “(A) the results of the investigation by the Special  
21 Counsel; and

22 “(B) the complainant’s entitlement to proceed under  
23 the enforcement of rights provisions provided under sec-  
24 tion 4324.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

2 Such title is further amended—

3 (1) in section 4322(b), by striking “Such a  
4 complaint” and inserting “Each complaint filed  
5 under subsection (a)”;

6 (2) in section 4323(a)—

7 (A) in paragraph (1), by striking “section  
8 4322(e)” and inserting “section 4322(d)(2)”;  
9 and

10 (B) in paragraph (2)(A), by striking “sec-  
11 tion 4322(a)” and inserting “section  
12 4322(a)(1)”.

13 (3) in section 4324—

14 (A) in subsection (a)(1)—

15 (i) in the first sentence, by striking  
16 “Secretary” each place it appears and in-  
17 serting “Special Counsel”;

18 (ii) by striking “section 4322(e)” and  
19 inserting “section 4322(e)(2)”; and

20 (iii) by striking the second sentence;  
21 and

22 (B) in subsection (b)—

23 (i) in paragraph (1)—

24 (I) by striking “Secretary” and  
25 inserting “Special Counsel”; and

1 (II) by striking “section  
2 4322(a)” and inserting “section  
3 4322(a)(2) of this title”; and

4 (ii) in paragraph (2)—

5 (I) by striking “Secretary” and  
6 inserting “Special Counsel”; and

7 (II) by striking “section 4322(e)”  
8 and inserting “section 4322(e)(2) of  
9 this title”; and

10 (4) in section 4325(c), by striking “section  
11 4322(d)” and inserting “section 4322(d)(1)”.

12 (c) CONFORMING REPEAL.—The Veterans Benefits  
13 Improvement Act of 2004 (Public Law 108–454) is  
14 amended by striking section 204.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply with respect to complaints filed  
17 on or after the date of the enactment of this Act.

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